

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

PRACTICEWORKS, INC., et al.,) Civil No.: JFM 02 CV 1205
)
Plaintiffs)
V.)
)
PROFESSIONAL SOFTWARE SOLUTIONS)
OF ILLINOIS, INC.,)
Defendant.)
)
AND)
)
PRACTICEWORKS, INC., et al.,) Civil No.: JFM 02 CV 1206
)
Plaintiffs)
V.)
)
DENTAL MEDICAL AUTOMATION, INC.,)
Defendant.)

**DEFENDANTS MOTION TO CONTINUE THE JUNE 17, 2004 HEARING,
MODIFY THE STAY OF DISCOVERY ORDER, COMPEL RULE 56(F)
DISCOVERY, AND FOR LEAVE TO FILE A SUR REPLY**

NOW COME the Defendants PROFESSIONAL SOFTWARE SOLUTIONS OF ILLINOIS, INC. and DENTAL MEDICAL AUTOMATION, INC., (hereinafter "Defendants"), by and through their attorneys, John M.G. Murphy, of Ober, Kaler, Grimes & Shriver, and Mark E. Wiemelt, of the Law Offices of Mark E. Wiemelt, P.C., and hereby move this honorable court pursuant to Fed. R. Civ. P. 7 (b) and 56 (f) for the Court to:

- 1) Continue the June 17, 2004 Hearing date;
- 2) Modify the Order Staying discovery;
- 3) Grant Defendants the opportunity to conduct Rule 56(f) discovery to

include the deposition of Mr. Al Fiori (a proposed notice of deposition of Al Fiori

is attached hereto as Exhibit "A") and a document request of documents (a proposed request for Production of Documents is attached as Exhibit "B") for documents relevant to that deposition; and,

4) Grant Defendants leave to file a Sur Reply following the conclusion of Rule 56 discovery.

A. On or about February 13, 2004, Plaintiffs' file a motion for partial summary judgment granting their amended third, fourth, fifth and sixth counts and for partial summary judgment, to dismiss, or, in the alternative, for judgment on the pleadings as to defendants' fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and pssi's fourteenth amended counterclaims and affirmative defenses.

B. On or about April 5, 2004, Defendants filed their Reply to that motion.

C. On or about May 28, 2004, Plaintiffs filed a Reply to Defendants Response Memorandum. That Reply included the Reply Affidavit of Mr. Al Fiori.

D. Mr. Fiori's Reply Affidavit included several statements which present new facts which Defendants cannot completely and fairly present by affidavit facts essential to justify their opposition.

E. A Memorandum in support of this motion is filed herewith and incorporated by reference as though fully set forth herein.

F. The Affidavit of Mark E Wiemelt filed in support of this motion and as required by Fed. R. Civ. P. 56(f) is attached hereto as Exhibit "A" to the Memorandum.

WHEREFORE, Defendants respectfully request this honorable court to continue the presently scheduled June 17, 2004 Hearing on Plaintiffs' motion for partial summary judgment granting their amended third, fourth, fifth and sixth counts and for partial summary judgment, to dismiss, or, in the alternative, for judgment on the pleadings as to defendants' fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and pssi's fourteenth amended counterclaims and affirmative defenses, modify the) Continue the June 17, 2004 Hearing date; Modify the Order Staying discovery; Grant Defendants the opportunity to conduct Rule 56(f) discovery to include the deposition of Mr. Al Fiori and a document request of documents for relevant to that deposition; and, Grant Defendants leave to file a Sur Reply following the conclusion of Rule 56.

Dated: June 14, 2004

Respectfully submitted,

By:

One of their Attorneys

Lead Counsel (Pro Hac Vice):

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